

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

DIRECTOR, DEPARTMENT OF LABOR
AND INDUSTRIAL RELATIONS,

Complainant,

and

INTERNATIONAL ROOFING &
BUILDING CONSTRUCTION, INC.,

Respondent.

CASE NO. OSH 2009-10

ORDER NO. 318

PRETRIAL ORDER

PRETRIAL ORDER

Pursuant to the initial conference in this matter held by the Hawaii Labor Relations Board (Board) on May 27, 2009, and attended by Herbert B.K. Lau, Deputy Attorney General, for Complainant, and Francis Robiniol, for Respondent, IT IS HEREBY ORDERED THAT:

A. The issues to be determined at trial are:

Citation 1, Item 1 (29 C.F.R. § 1926.501(b)(13))

Whether Citation 1, Item 1, including the characterization as "Willful" and the associated penalty of \$42,000.00, resulting from Inspection No. 311434054, was valid and proper.

Citation 1, Item 1 alleged:

29 CFR 1926.501(b)(13) [Refer to chapter 12-121.2, HAR] was violated because:

An employee working on a roof that was 11 feet above the lower level was not protected from fall hazards by the use of conventional fall protection. The lack of fall protection exposed the employee to potential serious injuries.

Respondent asserts the affirmative defense of employee misconduct.

- B. The deadline for the parties' final naming of witnesses is **June 29, 2009**. Each party shall provide a list of the names of witnesses it plans to call at trial, along with each witness's addresses and the general subject to which the witness will testify, to the other party and to the Board by this date.
- C. The discovery cutoff date is **July 29, 2009**.
- D. Trial in this matter is scheduled for **August 25, 2009 at 8:30 a.m.** in the Board's hearing room located at 830 Punchbowl Street, Room 434, Honolulu, Hawaii, 96813. The trial may be continued by the Board until completed.
- E. Hereafter, this Pretrial Order shall control the course of proceedings and may not be amended except by consent of the parties and the Board, or by order of the Board.

DATED: Honolulu, Hawaii, May 28, 2009.

HAWAII LABOR RELATIONS BOARD


JAMES B. NICHOLSON, Chair


EMORY J. SPRINGER, Member

NOTICE TO EMPLOYER

You are required to post a copy of this Order at or near where citations under the Hawaii Occupational Safety and Health Law are posted at least five working days prior to the trial date. Further, you are required to furnish a copy of this Order to a duly recognized representative of the employees, if any, at least five working days prior to the trial date.

Copies sent to:

Herbert B.K. Lau, Deputy Attorney General
Francis Robiniol